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**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:08-cv-10255-LAP**

Adamowicz et al v. Internal Revenue Service
Assigned to: Judge Loretta A. Preska
Related Case: [1:06-cv-03919-LAP](#)

Cause: 05:552 Freedom of Information Act

Date Filed: 11/25/2008
Date Terminated: 11/24/2009
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Michael Adamowicz
as Executor of the estate of Mary Adamowicz, Deceased

represented by **Frederick M. Sembler**
Law Offices of Frederick M. Sembler, PLLC
501 Madison Avenue, 8th Floor
New York, NY 10022
(212)-750-4483
Fax: (212)-750-4491
Email: fmsembler@fmsemblerpllc.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Elizabeth Fraser
as Executor of the Estate of Mary Adamowicz, Deceased

represented by **Frederick M. Sembler**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Appellant**Frederick M Sembler**

represented by **Frederick M. Sembler**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Appellant**The Law Office of Frederick M.
Sembler**

represented by **The Law Office of Frederick M.
Sembler**
PRO SE

V.

Defendant**Internal Revenue Service**

represented by **Tara Marie La Morte**
U.S. Attorney's Office, SDNY (Chambers
Street)
86 Chambers Street
New York, NY 10007
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Email: tara.lamorte2@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/25/2008	<u>1</u>	COMPLAINT against Internal Revenue Service. (Filing Fee \$ 350.00, Receipt Number 670836)Document filed by Michael Adamowicz, Elizabeth Fraser.(ama) (Entered: 12/01/2008)
11/25/2008		SUMMONS ISSUED as to Internal Revenue Service, U.S. Attorney and U.S. Attorney General. (ama) (Entered: 12/01/2008)
11/25/2008		CASE REFERRED TO Judge Loretta A. Preska as possibly Related to 1:06-cv-3919. (ama) (Entered: 12/01/2008)
11/25/2008		Case Designated ECF. (ama) (Entered: 12/01/2008)

12/15/2008	<u>2</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. Internal Revenue Service served on 12/11/2008, answer due 12/31/2008. Service was accepted by United States Attorney's Office. Document filed by Michael Adamowicz; Elizabeth Fraser. (Sembler, Frederick) (Entered: 12/15/2008)
12/15/2008	<u>3</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. Service was made by Certified Mail. Document filed by Michael Adamowicz, Elizabeth Fraser. (Sembler, Frederick) (Entered: 12/15/2008)
12/29/2008	<u>4</u>	NOTICE OF CASE ASSIGNMENT to Judge Loretta A. Preska. Judge Unassigned is no longer assigned to the case. (ad) (Entered: 12/29/2008)
12/29/2008		CASE ACCEPTED AS RELATED. Create association to 1:06-cv-03919-LAP. (ad) (Entered: 12/29/2008)
12/29/2008		Magistrate Judge Ronald L. Ellis is so designated. (ad) (Entered: 12/29/2008)
01/09/2009	<u>5</u>	ENDORSED LETTER: addressed to Judge Loretta A. Preska from Lev L. Dassin dated 1/6/09 re: Counsel for defendant requests a thirty day extension of time, from January 12, 2009 until February 11, 2009 to answer, move, or otherwise respond to the complaint. ENDORSEMENT: So Ordered. Internal Revenue Service answer due 2/11/2009. (Signed by Judge Loretta A. Preska on 1/8/09) (js) (Entered: 01/09/2009)
01/15/2009	<u>6</u>	NOTICE OF APPEARANCE by Tara Marie La Morte on behalf of Internal Revenue Service (La Morte, Tara) (Entered: 01/15/2009)
02/11/2009	<u>7</u>	ANSWER to Complaint. Document filed by Internal Revenue Service.(La Morte, Tara) (Entered: 02/11/2009)
04/24/2009	<u>8</u>	ORDER: Plaintiffs shall inform the Court if they disagree with the schedule proposed in the IRS's letter. If not, that shall be the schedule for the Motion. (Signed by Judge Loretta A. Preska on 4/24/09) (tro) (Entered: 04/24/2009)
04/24/2009	<u>9</u>	LETTER addressed to Judge Loretta A. Preska from Frederick M. Sembler dated 3/27/09 re: counsel respectfully submits this pre-motion letter in accordance with Your Honor's Individual Practices with a Vaughn Index with respect to the documents or portions of documents that Defendant withheld from production in response to Plaintiffs' 12/6/05 FOIA Request, December 16, 2005 FOIA Request and 4/3/07 FOIA Request that are described in the Complaint. Document filed by Michael Adamowicz, Elizabeth Fraser.(tro) (Entered: 04/24/2009)

04/24/2009	<u>10</u>	LETTER addressed to Judge Loretta A. Preska from Tara M. La Morte dated 4/15/09 re: Counsel respectfully submit this letter in response to Plaintiffs' letter dated 3/27/09, in which Plaintiffs request a pre-motion conference to discuss their anticipated motion to compel production of Vaughn index. Document filed by Internal Revenue Service.(tro) (Entered: 04/24/2009)
04/24/2009	<u>13</u>	LETTER addressed to Judge Preska from Frederick M. Sembler dated 3/27/09 re: counsel requests a pre-motion conference with the Court in connection with the above described anticipated motion. Document filed by Michael Adamowicz.(djc) (Entered: 05/13/2009)
04/24/2009	<u>14</u>	LETTER addressed to Judge Preska from Tara M. LaMorte dated 4/15/09 re: letter submitted in response to Plaintiffs' letter dated March 27, 2009. Document filed by Internal Revenue Service.(djc) (Entered: 05/13/2009)
05/07/2009	<u>11</u>	ENDORSED LETTER addressed to Judge Loretta A. Preska from Frederick M. Sembler dated 4/29/2009 re: Requesting an extension of time until August 31, 2009 to submit their opposition to said motion as well as submit plaintiffs' own motion for summary judgment; and that defendant's reply on its own motion and its opposition to plaintiffs' motion be due by September 21, 2009 and that plaintiffs reply be due by October 13, 2009. ENDORSEMENT: The schedule is approved. The requirement of a Vaughn Index is denied. SO ORDERED. (Signed by Judge Loretta A. Preska on 5/6/2009) (jpo) (Entered: 05/07/2009)
05/07/2009	<u>12</u>	LETTER addressed to Judge Loretta A. Preska from Tara M. LaMorte dated 5/4/2009 re: Requesting that the Court modify its April 24, 2009 order to require the IRS to submit a "Vaughn Index" with its summary judgment motion should be denied. Document filed by Internal Revenue Service.(jpo) (Entered: 05/07/2009)
06/17/2009	<u>15</u>	ENDORSED LETTER addressed to Judge Loretta Preska from Tara M. LaMorte dated 6/15/09 re: counsel requests a one-week extension of time, from June 22, 2009 until June 29, 2009 to file Defendant's Motion for Summary Judgment. ENDORSEMENT: So Ordered. (Motions due by 6/29/2009.) (Signed by Judge Loretta A. Preska on 6/16/09) (djc) (Entered: 06/17/2009)
06/24/2009	<u>16</u>	ENDORSED LETTER addressed to Judge Loretta A. Preska from Tara M. LaMorte dated 6/22/2009 re: I am the Assistant United States Attorney representing the Internal Revenue Service in the above-referenced FOIA matter. I write respectfully to request a five-page extension of Your Honor's 20-page limit for the Government's memorandum in support of its motion for summary judgment. ENDORSEMENT: SO ORDERED. (Signed by Judge Loretta A. Preska on 6/23/2009) (jmi) (Entered: 06/24/2009)
06/29/2009	<u>17</u>	FILING ERROR - DEFICIENT DOCKET ENTRY - FIRST MOTION for Summary Judgment. Document filed by Internal Revenue Service. (La Morte, Tara) Modified on 7/2/2009 (db). (Entered: 06/29/2009)

06/29/2009	18	FILING ERROR - DEFICIENT DOCKET ENTRY - MEMORANDUM OF LAW in Support re: 17 FIRST MOTION for Summary Judgment. Document filed by Internal Revenue Service. (La Morte, Tara) Modified on 7/2/2009 (db). (Entered: 06/29/2009)
06/29/2009	19	FILING ERROR - DEFICIENT DOCKET ENTRY - DECLARATION of Rachel Gregory in Support re: 17 FIRST MOTION for Summary Judgment. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) Modified on 7/2/2009 (db). (Entered: 06/29/2009)
06/29/2009	20	FILING ERROR - DEFICIENT DOCKET ENTRY - DECLARATION of Alan Dichter in Support re: 17 FIRST MOTION for Summary Judgment. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) Modified on 7/2/2009 (db). (Entered: 06/29/2009)
06/29/2009	21	FILING ERROR - DEFICIENT DOCKET ENTRY - DECLARATION of Nanette Beamon in Support re: 17 FIRST MOTION for Summary Judgment. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) Modified on 7/2/2009 (db). (Entered: 06/29/2009)
06/29/2009	22	FILING ERROR - DEFICIENT DOCKET ENTRY - DECLARATION of Theresa Carrillo in Support re: 17 FIRST MOTION for Summary Judgment. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) Modified on 7/2/2009 (db). (Entered: 06/29/2009)
06/29/2009	23	FILING ERROR - DEFICIENT DOCKET ENTRY - DECLARATION of Donald Glasel in Support re: 17 FIRST MOTION for Summary Judgment. Document filed by Internal Revenue Service. (La Morte, Tara) Modified on 7/2/2009 (db). (Entered: 06/29/2009)
06/29/2009	24	FILING ERROR - DEFICIENT DOCKET ENTRY - DECLARATION of Tara M. La Morte in Support re: 17 FIRST MOTION for Summary Judgment. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) Modified on 7/2/2009 (db). (Entered: 06/29/2009)
06/29/2009	25	FIRST MOTION for Summary Judgment. Document filed by Internal Revenue Service.(La Morte, Tara) Modified on 6/30/2009 (db). Modified on 7/2/2009 (db). Modified on 7/2/2009 (db). (Entered: 06/29/2009)

06/29/2009		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DEFICIENT DOCKET ENTRY ERROR. Note to Attorney Tara Marie La Morte to RE-FILE Document 19 Declaration in Support of Motion, 22 Declaration in Support of Motion, 20 Declaration in Support of Motion, 24 Declaration in Support of Motion, 23 Declaration in Support of Motion, 21 Declaration in Support of Motion, 18 Memorandum of Law in Support of Motion. ERROR(S): Supporting Documents must be Linked to the Corrected Motion. ***Re-File Supporting Documents (18-24) and link them to the Corrected 25 MOTION.*** (db) (Entered: 07/02/2009)
07/02/2009	26	MEMORANDUM OF LAW in Support re: 25 FIRST MOTION for Summary Judgment.. Document filed by Internal Revenue Service. (La Morte, Tara) (Entered: 07/02/2009)
07/02/2009	27	DECLARATION of Rachel Gregory in Support re: 25 FIRST MOTION for Summary Judgment.. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) (Entered: 07/02/2009)
07/02/2009	28	DECLARATION of Alan Dichter in Support re: 25 FIRST MOTION for Summary Judgment.. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits) (La Morte, Tara) (Entered: 07/02/2009)
07/02/2009	29	DECLARATION of Nanette Beamon in Support re: 25 FIRST MOTION for Summary Judgment.. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) (Entered: 07/02/2009)
07/02/2009	30	DECLARATION of Theresa Carrillo in Support re: 25 FIRST MOTION for Summary Judgment.. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) (Entered: 07/02/2009)
07/02/2009	31	DECLARATION of Donald Glasel in Support re: 25 FIRST MOTION for Summary Judgment.. Document filed by Internal Revenue Service. (La Morte, Tara) (Entered: 07/02/2009)
07/02/2009	32	DECLARATION of Tara M. La Morte in Support re: 25 FIRST MOTION for Summary Judgment.. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) (Entered: 07/02/2009)
08/20/2009	33	ENDORSED LETTER addressed to Judge Loretta A. Preska from Frederick M. Sembler dated 8/19/2009 re: Counsel respectfully request permission to enlarge Plaintiffs' brief in opposition to Defendant's pending motion for summary judgment and in support of Plaintiffs' anticipated cross-motion for partial summary judgment by an additional 10 pages, for a total of 30 pages. ENDORSEMENT: So Ordered. (Signed by Judge Loretta A. Preska on 8/19/2009) (jfe) (Entered: 08/20/2009)

08/31/2009	34	CROSS MOTION for Summary Judgment. Document filed by Michael Adamowicz, Elizabeth Fraser.(Sembler, Frederick) (Entered: 08/31/2009)
08/31/2009	35	DECLARATION of Frederick M. Sembler, Esq. in Support re: 34 CROSS MOTION for Summary Judgment.. Document filed by Michael Adamowicz, Elizabeth Fraser. (Attachments: # 1 Exhibit A-J, # 2 Exhibit K-S, # 3 Exhibit T-Y)(Sembler, Frederick) (Entered: 08/31/2009)
08/31/2009	36	DECLARATION of Plaintiff Michael Adamowicz in Support re: 34 CROSS MOTION for Summary Judgment.. Document filed by Michael Adamowicz, Elizabeth Fraser. (Sembler, Frederick) (Entered: 08/31/2009)
08/31/2009	37	MEMORANDUM OF LAW in Support re: 34 CROSS MOTION for Summary Judgment. <i>and in Opposition to Defendant's Motion for Summary Judgment.</i> Document filed by Michael Adamowicz, Elizabeth Fraser. (Sembler, Frederick) (Entered: 08/31/2009)
09/21/2009	38	MEMORANDUM OF LAW in Opposition re: 34 CROSS MOTION for Summary Judgment. <i>and in Further Support of Defendant's Motion for Summary Judgment.</i> Document filed by Internal Revenue Service. (La Morte, Tara) (Entered: 09/21/2009)
09/21/2009	39	DECLARATION of Tara M. La Morte in Opposition re: 34 CROSS MOTION for Summary Judgment.. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) (Entered: 09/21/2009)
09/21/2009	40	DECLARATION of Rachel Gregory in Opposition re: 34 CROSS MOTION for Summary Judgment.. Document filed by Internal Revenue Service. (Attachments: # 1 Exhibits)(La Morte, Tara) (Entered: 09/21/2009)
09/21/2009	41	DECLARATION of Susan Leboff in Opposition re: 34 CROSS MOTION for Summary Judgment.. Document filed by Internal Revenue Service. (La Morte, Tara) (Entered: 09/21/2009)
10/02/2009	42	ENDORSED LETTER addressed to Judge Loretta A. Preska from Frederick M. Sembler dated 10/1/09 re: Counsel request on behalf of Plaintiffs to enlarge Plaintiffs' reply brief to Defendant's Memorandum of Law in Opposition to Plaintiffs' Motion for Summary Judgment and in Further Support of the Defendant's Motion for Summary Judgment, which brief is limited to 10 pages under the Rules, by an additional 10 pages, for a total of 20 pages. ENDORSEMENT: SO ORDERED. (Signed by Judge Loretta A. Preska on 10/2/09) (tro) (Entered: 10/02/2009)
10/13/2009	43	REPLY MEMORANDUM OF LAW in Support re: 34 CROSS MOTION for Summary Judgment. <i>and in Response to Defendant's Answering Memorandum.</i> Document filed by Michael Adamowicz, Elizabeth Fraser. (Sembler, Frederick) (Entered: 10/13/2009)

10/13/2009	44	DECLARATION of Frederick M. Sembler in Support re: 34 CROSS MOTION for Summary Judgment.. Document filed by Michael Adamowicz, Elizabeth Fraser. (Attachments: # 1 Exhibits A-D)(Sembler, Frederick) (Entered: 10/13/2009)
10/13/2009	45	DECLARATION of Plaintiff Michael Adamowicz in Support re: 34 CROSS MOTION for Summary Judgment.. Document filed by Michael Adamowicz, Elizabeth Fraser. (Sembler, Frederick) (Entered: 10/13/2009)
11/24/2009	46	MEMORANDUM AND ORDER: For the foregoing reasons, the Government's motion forsummary judgment [dkt. no. 25] is GRANTED, and Plaintiffs'cross-motion for summary judgment [dkt. no. 34] is DENIED.of Court shall mark this action CLOSED and all pending motionsDENIED as moot.Plaintiffs' counsel shall review ABA Model Rule of ProfessionalConduct 3.3 and Federal Rule of Civil Procedure 11(b) beforemaking further representations of law to this Court. The Clerk of Court shall mark this action CLOSED and all pending motionsDENIED as moot. So Ordered (Signed by Judge Loretta A. Preska on 11/24/09) (js) (Entered: 11/24/2009)
12/16/2009	47	ORDER: Because plaintiffs in fact had an opportunity to be heard on issues further set forth in said Order, regarding their Motion for an Extension of time to submit a Rule 60(b) Motion, but apparently chose not to avail themselves of it, Plaintiffs' motion is denied. (Signed by Judge Loretta A. Preska on 12/15/09) (db) (Entered: 12/16/2009)
01/20/2010	48	NOTICE OF APPEAL from 46 Memorandum and Order. Document filed by Michael Adamowicz, Elizabeth Fraser. Filing fee \$ 455.00, receipt number E 892334. (nd) (Entered: 01/21/2010)
01/20/2010	49	NOTICE OF APPEAL from 46 Memorandum and Order. Document filed by Frederick M Sembler, The Law Office of Frederick M. Sembler, PLLC counsel to the plaintiffs. Filing fee \$ 455.00, receipt number E 892335. (nd) (Entered: 01/21/2010)
01/21/2010		Transmission of Notice of Appeal to the District Judge re: 48 Notice of Appeal. (nd) (Entered: 01/21/2010)
01/21/2010		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 48 Notice of Appeal. (nd) (Entered: 01/21/2010)
01/21/2010		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for 2 Affidavit of Service Complaints, filed by Elizabeth Fraser, Michael Adamowicz, 44 Declaration in Support of Motion filed by Elizabeth Fraser, Michael Adamowicz, 25 FIRST MOTION for Summary Judgment. filed by Internal Revenue Service, 43 Reply Memorandum of Law in Support of Motion filed by Elizabeth Fraser, Michael Adamowicz, 4 Notice of Case Assignment/Reassignment, 3 Affidavit of Service Complaints filed by Elizabeth Fraser, Michael Adamowicz, 41 Declaration in Opposition to Motion filed by Internal Revenue Service, 45

		Declaration in Support of Motion filed by Elizabeth Fraser, Michael Adamowicz, 12 Letter, filed by Internal Revenue Service, 6 Notice of Appearance filed by Internal Revenue Service, 37 Memorandum of Law in Support of Motion filed by Elizabeth Fraser, Michael Adamowicz, 36 Declaration in Support of Motion filed by Elizabeth Fraser, Michael Adamowicz, 32 Declaration in Support of Motion filed by Internal Revenue Service, 11 Endorsed Letter, Set Deadlines/Hearings,,, 40 Declaration in Opposition to Motion filed by Internal Revenue Service, 30 Declaration in Support of Motion filed by Internal Revenue Service, 38 Memorandum of Law in Opposition to Motion filed by Internal Revenue Service, 35 Declaration in Support of Motion filed by Elizabeth Fraser, Michael Adamowicz, 16 Endorsed Letter, 46 Order of Dismissal,, 33 Endorsed Letter, Set Motion and R&R Deadlines/Hearings,, 5 Endorsed Letter, Set Deadlines/Hearings,, 15 Endorsed Letter, Set Deadlines/Hearings,, 27 Declaration in Support of Motion filed by Internal Revenue Service, 39 Declaration in Opposition to Motion filed by Internal Revenue Service, 28 Declaration in Support of Motion filed by Internal Revenue Service, 8 Order, 47 Order, 10 Letter, filed by Internal Revenue Service, 9 Letter,, filed by Elizabeth Fraser, Michael Adamowicz, 31 Declaration in Support of Motion filed by Internal Revenue Service, 26 Memorandum of Law in Support of Motion filed by Internal Revenue Service, 29 Declaration in Support of Motion filed by Internal Revenue Service, 48 Notice of Appeal filed by Elizabeth Fraser, Michael Adamowicz, 7 Answer to Complaint filed by Internal Revenue Service, 1 Complaint filed by Elizabeth Fraser, Michael Adamowicz, 34 CROSS MOTION for Summary Judgment. filed by Elizabeth Fraser, Michael Adamowicz, 42 Endorsed Letter,, were transmitted to the U.S. Court of Appeals. (nd) (Entered: 01/21/2010)
01/21/2010		Transmission of Notice of Appeal to the District Judge re: 49 Notice of Appeal. (nd) (Entered: 01/21/2010)
01/21/2010		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 49 Notice of Appeal. (nd) (Entered: 01/21/2010)
02/02/2011	50	MANDATE of USCA (Certified Copy) as to 49 Notice of Appeal filed by Frederick M Sembler, The Law Office of Frederick M. Sembler, 48 Notice of Appeal filed by Elizabeth Fraser, Michael Adamowicz USCA Case Number 10-0263-cv(L), 10-0265-cv(con). Ordered, Adjudged and Decreed that the District Court's order entered on November 24, 2009 is AFFIRMED and the appeal is docketed as No. 10-0265-cv is DISMISSED. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Issued As Mandate: 02/01/2011. (nd) (Entered: 02/02/2011)
02/02/2011		Transmission of USCA Mandate/Order to the District Judge re: 50 USCA Mandate,, (nd) (Entered: 02/02/2011)

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